

APR 27 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GILBERTO DE LA TORRE
RUVALCABA; ROSALINA DE LA
TORRE,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

Nos. 06-73304

07-70194

Agency Nos. A079-561-671

A079-561-672

MEMORANDUM *

On Petitions for Review of Orders of the
Board of Immigration Appeals

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

In these consolidated petitions, Gilberto de la Torre Ruvalcaba and Rosalina de la Torre, husband and wife and natives and citizens of Mexico, petition for

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

review of the Board of Immigration Appeals’ (“BIA”) order dismissing their appeal from an immigration judge’s (“IJ”) decision denying their applications for cancellation of removal (No. 06-73304) and the BIA’s order denying their motion to reopen to adjust status (No. 07-70194). Our jurisdiction is governed by 8 U.S.C. § 1252. We deny in part and dismiss in part the petition for review in No. 06-73304, and deny the petition for review in No. 07-70194.

Contrary to petitioners’ contention, the BIA considered evidence of hardship to petitioners’ qualifying relatives, including de la Torre’s lawful permanent resident parents. *See Ghaly v. INS*, 58 F.3d 1425, 1430 (9th Cir. 1995) (error “committed by the IJ will be rendered harmless by the [BIA’s] application of the correct legal standard”). We lack jurisdiction to review the BIA’s discretionary determination that petitioners failed to show exceptional and extremely unusual hardship to their qualifying relatives. *See Mendez-Castro v. Mukasey*, 552 F.3d 975, 979 (9th Cir. 2009).

Petitioners have waived any challenge to the BIA’s order denying their motion to reopen. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir.

1996) (issues which have not specifically raised and argued in a party's opening brief are waived).

**No. 06-73304: PETITION FOR REVIEW DENIED in part;
DISMISSED in part.**

No. 07-70194: PETITION FOR REVIEW DENIED.